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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,895

12/30/2005

Alain Bejean

94176

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24628

7590

12/14/2009

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EXAMINER

HENNING, MATTHEW T

ART UNIT

PAPER NUMBER

2431

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/532,895	<b>Applicant(s)</b> BEJEAN, ALAIN	
	<b>Examiner</b> MATTHEW T. HENNING	<b>Art Unit</b> 2431	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: None.  
 Claim(s) objected to: None.  
 Claim(s) rejected: 2-12.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.

/Matthew T Henning/  
 Primary Examiner, Art Unit 2431

Continuation of 11. does NOT place the application in condition for allowance because:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the disabled activation function preventing the command receiver from being switched into the learning mode) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In this case, the examiner encourages the applicants to carefully review the claim language. The claim recites "preventing the command receiver from being switched into the learning mode by the disabled activation function". This means that the disabled activation function is not able to cause the receiver to be switched to the learning mode. It does not mean that the receiver cannot be switched to the learning mode by other means. Again, the examiner urges the applicants to carefully review the claim language to ensure that the features which the applicants believe are important to the invention are being properly worded in the claim language as to reflect those features.

With regards to the remaining arguments, the applicants appear to be confused regarding how the claims are being rejected in view of the prior art. As such, the examiner will explain the combination and how this reads on the claim language below.

Basically, Heitschel teaches a system which has a receiver with a program mode and an operate mode. In order to enable the program mode in the receiver device, according to Heitschel, a switch is activated on the receiver. This allows a transmitter to be added to the list of transmitters which can transmit commands (i.e. open garage door) to the device.

Alternatively, Bruwer teaches a system in which a master transmitter sends a command to the receiver to activate the learning mode in the receiver. "The learning mode function can be selected by activating it on the decoder. This can be accomplished by using a normal encoder and programming the output function to set the decoder in learning mode. This is also known as a master encoder or token." "When the master encoder is activated the output function control unit sends a control signal to the unit thereby placing the decoder in the learning mode."

Bruwer further teaches that disabling of the learning feature of an encoder can be accomplished by sensing the push of one or a combination of buttons by the user.

So in the combination of Heitschel and Bruwer, instead of activating a switch to set the receiver into program mode, a master encoder is used, as taught by Bruwer, by having a master transmitter program mode produce a control signal to set the receiver into program mode.

Further, the master transmitter can sense the push of one or a combination of buttons by the user, thereby disabling the learning feature of the master transmitter. As a result, because the learning feature of the master encoder has been disabled, it is prevented from producing output to place the decoder into program mode.

In the combination, the master transmitter sensing the push of one or a combination of buttons by the user reads on the claim limitation of applying at least one action to a particular secure command transmitter assembly. The disabling the learning feature of the master transmitter in response to said sensing reads on the disabling at least one activation function that causes the command receiver to switch to the learning mode. And again the disabling the learning feature of the master transmitter reads on the preventing the command receiver from being switched into the learning mode by the disabled activation function.

As such, the examiner has maintained the rejections previously presented. .